

State of California

WELFARE AND INSTITUTIONS CODE

Section 10072.3

10072.3. (a) This section shall be known, and may be cited, as the California Fruit and Vegetable EBT Pilot Project.

(b) For purposes of this section, the following definitions shall apply:

(1) "Authorized retailer" means any retail establishment that is authorized to accept CalFresh benefits, including, but not limited to, grocery stores, corner stores, farmers' markets, farm stands, and mobile markets.

(2) "California-grown" means agricultural products that have been produced in the state, as specified in paragraph (1) of subdivision (a) of Section 43100 of the Food and Agricultural Code.

(3) "Fresh fruits and vegetables" means any variety of whole or cut fruits and vegetables without added sugars, fats, oils, or salt and that have not been processed with heat, drying, canning, or freezing.

(4) "Supplemental benefits" means additional funds delivered to a CalFresh recipient's EBT card upon purchase of California-grown fresh fruits and vegetables using CalFresh benefits, and to be redeemed only for purchases allowed under the CalFresh program at an authorized retailer.

(c) The department, in consultation with the Department of Food and Agriculture, county CalFresh administrators, and stakeholders with experience operating CalFresh nutrition incentive programs, shall include within the EBT system a supplemental benefits mechanism that allows an authorized retailer to deliver and redeem supplemental benefits. The supplemental benefits mechanism shall be compatible with operational procedures at farmers' markets with centralized point-of-sale terminals and at grocery stores with integrated point-of-sale terminals. The supplemental benefits mechanism shall ensure all of the following:

(1) Supplemental benefits can be transferable across any authorized retailer.

(2) Supplemental benefits can be accrued, tracked, and redeemed by CalFresh recipients in a seamless, integrated process through the EBT system.

(3) Supplemental benefits can only be accrued by CalFresh recipients through the purchase of California-grown fresh fruits and vegetables from an authorized retailer.

(4) Supplemental benefits can only be redeemed to make eligible purchases under the CalFresh program from an authorized retailer.

(5) The supplemental benefits mechanism complies with all applicable state and federal laws governing procedures to ensure privacy and confidentiality.

(6) Authorized retailers that use EBT-only point-of-sale terminals, such as farmers' markets, and those that use integrated point-of-sale terminals, such as grocery stores, shall be able to integrate the new supplemental benefits mechanism into their existing

systems, including the free state-issued hardware provided to certified farmers' markets and farmers.

(7) The supplemental benefits mechanism provides a CalFresh benefits to supplemental benefits match ratio of at least 1:1.

(8) A CalFresh household may only accrue up to a limited amount of supplemental benefits, as determined by the department.

(9) There shall be no expiration date for use of supplemental benefits, but the benefits may be expunged in accordance with federal Supplemental Nutrition Assistance Program (SNAP) regulations.

(d) There is hereby created in the State Treasury the California Fruit and Vegetable EBT Grant Fund. The fund shall consist of moneys from state, federal, and other public and private sources to provide grants pursuant to subdivision (e).

(e) Upon the deposit of sufficient moneys into the California Fruit and Vegetable EBT Grant Fund, as determined by the department, and upon the appropriation of moneys from the fund by the Legislature for this purpose, the department shall provide grants for pilot projects to implement and test the supplemental benefits mechanism in existing retail settings. The goal of the pilot project is to develop and refine a scalable model for increasing the purchase and consumption of California-grown fresh fruits and vegetables by delivering supplemental benefits to CalFresh recipients in a way that can be easily adopted by authorized retailers of various types, sizes, and locations in the future. The department, in consultation with the Department of Food and Agriculture, shall develop and adopt guidelines for awarding the grants, which shall include, at a minimum, all of the following requirements:

(1) (A) A minimum of three grants shall be awarded to nonprofit organizations or government agencies.

(B) At least one of the grants shall provide the ability to test the supplemental benefit mechanism at farmers' markets. A farmers' market that operates a centralized point-of-sale terminal and a scrip system and that also participates as a pilot project pursuant to this section may disburse scrips for supplemental benefits and for California-grown fresh fruit and vegetables concurrently.

(2) Selection criteria shall require that grant applicants demonstrate all of the following:

(A) Previous experience and effectiveness in administering CalFresh nutrition incentive programs, or similar supplemental benefits programs.

(B) Partnership commitment from at least one existing authorized retailer that already accepts CalFresh benefits and sells fresh fruits and vegetables, including a variety of California-grown fresh fruits and vegetables, and commits to selling California-grown fresh fruits and vegetables during the pilot project period.

(C) Ability to ensure that supplemental benefits are only accrued and delivered when purchasing California-grown fresh fruits and vegetables with CalFresh benefits and will be used only to make purchases authorized under the CalFresh program.

(D) Status as a nonprofit organization or government agency.

(E) Ability to provide the minimum data deemed necessary for the department to successfully evaluate the pilot project, as described in paragraph (1) of subdivision (f).

(F) Any other criteria that the department deems necessary for successful pilot project implementation, such as the level of need in the community, the size of the CalFresh population, and the need for geographic diversity.

(3) Grantees shall be responsible for all of the following:

(A) Securing the commitment of at least one authorized retailer willing to participate in the pilot project.

(B) Conducting community outreach.

(C) Providing evaluation data to the department.

(D) Ensuring the integrity of the pilot project following guidelines adopted by the department pursuant to this subdivision.

(f) (1) The department shall evaluate the pilot projects and make recommendations to further refine and expand the supplemental benefits mechanism. These recommendations shall also include a strategy for CalFresh client education, developed in consultation with county CalFresh administrators and advocates. The evaluation shall examine the efficacy of supplemental benefits accrual, delivery, and redemption from the perspective of CalFresh recipients, participating retailers, and state administrators. The evaluation shall also provide recommendations for further modifications that would make the mechanism easier for CalFresh recipients to use, for a variety of authorized retailer types to adopt, and for the department to administer. The department may contract with an independent evaluator to conduct this evaluation.

(2) Nine months after the department has received sufficient data to evaluate the pilot, but no later than January 1, 2022, the department shall submit a report to the Legislature that includes the results of the evaluation required pursuant to paragraph (1).

(g) Notwithstanding any other law, all of the following shall apply for the purposes of this section:

(1) Contracts or grants awarded pursuant to this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) Contracts or grants awarded pursuant to this section shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services or the Department of Technology.

(3) The state shall be immune from any liability resulting from the implementation of this section.

(4) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific this section without taking any regulatory action.

(h) Notwithstanding Sections 18927 and 11004, the supplemental benefits described in this section are not subject to recovery for an overissuance caused by intentional

program violation, fraud, inadvertent household error, or administrative error, and shall not be subject to review under Section 10950.

(i) The supplemental benefits described in this section are not entitlement benefits, and the department shall provide those benefits pursuant to this section only to the extent that funding is appropriated in the annual Budget Act for purposes of this section.

(j) The department shall seek any necessary federal approvals to establish this pilot project.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

(Added by Stats. 2018, Ch. 35, Sec. 11. (AB 1811) Effective June 27, 2018. Repealed as of January 1, 2024, by its own provisions.)